

AMENDED IN SENATE FEBRUARY 14, 2009

AMENDED IN ASSEMBLY JANUARY 7, 2009

CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

## ASSEMBLY BILL

**No. 10**

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**Introduced by Assembly Member Evans**

January 5, 2009

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~~An act relating to the Budget Act of 2008. An act to amend Sections 5891 and 5892 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Evans. ~~Budget Act of 2008. The Mental Health Services Act: Proposition 63 amendments.~~

*Existing law, the Mental Health Services Act (hereafter, the MHSA), an initiative measure, was approved by the voters in November 2004 as Proposition 63. The MHSA establishes the Mental Health Oversight and Accountability Commission, and imposes a tax of 1% on incomes above \$1,000,000 for the purpose of financing new or expanded mental health services. Under the MHSA, the State Department of Mental Health is required, among other things, to distribute funds for local assistance for designated mental health programs. The MHSA prohibits a decrease in other funding levels for pre-existing mental health programs below the 2003–04 fiscal year levels, and prohibits a change in the structure of financing mental health services, which increases the county's share of costs or risk unless full compensation is provided. As an initiative measure, unless approved by the voters, the MHSA permits amendment of its provisions by  $\frac{2}{3}$  vote of the Legislature, but only if the amendments are consistent with and further the intent of the*

MHSA. The MHSA also permits amendment by majority vote of the Legislature to clarify procedures and terms.

This bill, subject to voter approval at a statewide election, would, until July 1, 2011, permit the sum of \$226,700,000 of MHSA funding in the 2009–10 fiscal year and up to \$234,000,000 of MHSA funding in the 2010–11 fiscal year to be redirected to support the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program as administered by the State Department of Mental Health.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2008.~~

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5891 of the Welfare and Institutions Code  
2     is amended to read:

3     5891. (a) The funding established pursuant to this act shall be  
4     utilized to expand mental health services.—~~These Except as~~  
5     authorized in paragraph (7) of subdivision (a) of Section 5892,  
6     these funds shall not be used to supplant existing state or county  
7     funds utilized to provide mental health services.—~~The Except as~~

1 *authorized in paragraph (7) of subdivision (a) of Section 5892,*  
2 state shall continue to provide financial support for mental health  
3 programs with not less than the same entitlements, amounts of  
4 allocations from the General Fund and formula distributions of  
5 dedicated funds as provided in the last fiscal year which ended  
6 prior to the effective date of this act. The state shall not make any  
7 change to the structure of financing mental health services, which  
8 increases a county's share of costs or financial risk for mental  
9 health services unless the state includes adequate funding to fully  
10 compensate for such increased costs or financial risk. These funds  
11 shall only be used to pay for the programs authorized in Section  
12 5892. These funds may not be used to pay for any other program.  
13 These funds may not be loaned to the state General Fund or any  
14 other fund of the state, or a county general fund or any other county  
15 fund for any purpose other than those authorized by Section 5892.

16 (b) Notwithstanding subdivision (a), the Controller may use the  
17 funds created pursuant to this part for loans to the General Fund  
18 as provided in Sections 16310 and 16381 of the Government Code.  
19 Any such loan shall be repaid from the General Fund with interest  
20 computed at 110 percent of the Pooled Money Investment Account  
21 rate, with interest commencing to accrue on the date the loan is  
22 made from the fund. This subdivision does not authorize any  
23 transfer that would interfere with the carrying out of the object for  
24 which these funds were created.

25 *SEC. 2. Section 5892 of the Welfare and Institutions Code is*  
26 *amended to read:*

27 5892. (a) In order to promote efficient implementation of this  
28 act allocate the following portions of funds available in the Mental  
29 Health Services Fund in 2005–06 and each year thereafter:

30 (1) In 2005–06, 2006–07, and in 2007–08 10 percent shall be  
31 placed in a trust fund to be expended for education and training  
32 programs pursuant to Part 3.1.

33 (2) In 2005–06, 2006–07 and in 2007–08 10 percent for capital  
34 facilities and technological needs distributed to counties in  
35 accordance with a formula developed in consultation with the  
36 California Mental Health Directors Association to implement plans  
37 developed pursuant to Section 5847.

38 (3) Twenty percent for prevention and early intervention  
39 programs distributed to counties in accordance with a formula  
40 developed in consultation with the California Mental Health

1 Directors Association pursuant to Part 3.6 (commencing with  
2 Section 5840) of this division. Each county's allocation of funds  
3 shall be distributed only after its annual program for expenditure  
4 of such funds has been approved by the Mental Health Services  
5 Oversight and Accountability Commission established pursuant  
6 to Section 5845.

7 (4) The allocation for prevention and early intervention may be  
8 increased in any county which the department determines that such  
9 increase will decrease the need and cost for additional services to  
10 severely mentally ill persons in that county by an amount at least  
11 commensurate with the proposed increase. The statewide allocation  
12 for prevention and early intervention may be increased whenever  
13 the Mental Health Services Oversight and Accountability  
14 Commission determines that all counties are receiving all necessary  
15 funds for services to severely mentally ill persons and have  
16 established prudent reserves and there are additional revenues  
17 available in the fund.

18 (5) The balance of funds shall be distributed to county mental  
19 health programs for services to persons with severe mental illnesses  
20 pursuant to Part 4 (commencing with Section 5850), for the  
21 children's system of care and Part 3 (commencing with Section  
22 5800), for the adult and older adult system of care.

23 (6) Five percent of the total funding for each county mental  
24 health program for Part 3 (commencing with Section 5800), Part  
25 3.6 (commencing with Section 5840), and Part 4 (commencing  
26 with Section 5850) of this division, shall be utilized for innovative  
27 programs pursuant to an approved plan required by Section 5830  
28 and such funds may be distributed by the department only after  
29 such programs have been approved by the Mental Health Services  
30 Oversight and Accountability Commission established pursuant  
31 to Section 5845.

32 (7) *Prior to the distribution of funds under paragraphs (1) to*  
33 *(5), inclusive, effective July 1, 2009, the sum of two hundred*  
34 *twenty-six million seven hundred thousand dollars (\$226,700,000)*  
35 *shall be redirected to support the Early and Periodic Screening,*  
36 *Diagnosis and Treatment (EPSDT) Program as administered by*  
37 *the State Department of Mental Health for the 2009–10 fiscal year.*  
38 *For the 2010–11 fiscal year prior to the distribution of funds under*  
39 *paragraphs (1) to (5), inclusive, effective July 1, 2010, the sum of*  
40 *two hundred twenty-six million seven hundred thousand dollars*

1 (\$226,700,000) shall be redirected to support the EPSDT program,  
 2 except that this amount may be adjusted to fund caseload as  
 3 appropriate in the EPSDT program, but the total amount redirected  
 4 for the 2010–11 fiscal year shall not exceed the sum of two hundred  
 5 thirty-four million dollars (\$234,000,000). This paragraph shall  
 6 become inoperative on July 1, 2011.

7 (b) In any year after 2007–08, programs for services pursuant  
 8 to Part 3 (commencing with Section 5800), and Part 4  
 9 (commencing with Section 5850) of this division may include  
 10 funds for technological needs and capital facilities, human resource  
 11 needs, and a prudent reserve to ensure services do not have to be  
 12 significantly reduced in years in which revenues are below the  
 13 average of previous years. The total allocation for purposes  
 14 authorized by this subdivision shall not exceed 20 percent of the  
 15 average amount of funds allocated to that county for the previous  
 16 five years pursuant to this section.

17 (c) The allocations pursuant to subdivisions (a) and (b) shall  
 18 include funding for annual planning costs pursuant to Section 5848.  
 19 The total of such costs shall not exceed 5 percent of the total of  
 20 annual revenues received for the fund. The planning costs shall  
 21 include funds for county mental health programs to pay for the  
 22 costs of consumers, family members and other stakeholders to  
 23 participate in the planning process and for the planning and  
 24 implementation required for private provider contracts to be  
 25 significantly expanded to provide additional services pursuant to  
 26 Part 3 (commencing with Section 5800), and Part 4 (commencing  
 27 with Section 5850) of this division.

28 (d) Prior to making the allocations pursuant to subdivisions (a),  
 29 (b) and (c), the department shall also provide funds for the costs  
 30 for itself, the California Mental Health Planning Council and the  
 31 Mental Health Services Oversight and Accountability Commission  
 32 to implement all duties pursuant to the programs set forth in this  
 33 section. Such costs shall not exceed 5 percent of the total of annual  
 34 revenues received for the fund. The administrative costs shall  
 35 include funds to assist consumers and family members to ensure  
 36 the appropriate state and county agencies give full consideration  
 37 to concerns about quality, structure of service delivery or access  
 38 to services. The amounts allocated for administration shall include  
 39 amounts sufficient to ensure adequate research and evaluation  
 40 regarding the effectiveness of services being provided and

1 achievement of the outcome measures set forth in Part 3  
2 (commencing with Section 5800), Part 3.6 (commencing with  
3 Section 5840), and Part 4 (commencing with Section 5850) of this  
4 division.

5 (e) In 2004–05 funds shall be allocated as follows:

6 (1) 45 percent for education and training pursuant to Part 3.1  
7 (commencing with Section 5820) of this division.

8 (2) 45 percent for capital facilities and technology needs in the  
9 manner specified by paragraph (2) of subdivision (a).

10 (3) 5 percent for local planning in the manner specified in  
11 subdivision (c) and

12 (4) 5 percent for state implementation in the manner specified  
13 in subdivision (d).

14 (f) Each county shall place all funds received from the State  
15 Mental Health Services Fund in a local Mental Health Services  
16 Fund. The Local Mental Health Services Fund balance shall be  
17 invested consistent with other county funds and the interest earned  
18 on such investments shall be transferred into the fund. The earnings  
19 on investment of these funds shall be available for distribution  
20 from the fund in future years.

21 (g) All expenditures for county mental health programs shall  
22 be consistent with a currently approved plan or update pursuant  
23 to Section 5847.

24 (h) Other than funds placed in a reserve in accordance with an  
25 approved plan, any funds allocated to a county which have not  
26 been spent for their authorized purpose within three years shall  
27 revert to the state to be deposited into the fund and available for  
28 other counties in future years, provided however, that funds for  
29 capital facilities, technological needs or education and training  
30 may be retained for up to 10 years before reverting to the fund.

31 (i) If there are still additional revenues available in the fund  
32 after the Mental Health Services Oversight and Accountability  
33 Commission has determined there are prudent reserves and no  
34 unmet needs for any of the programs funded pursuant to this  
35 section, including all purposes of the Prevention and Early  
36 Intervention Program, the commission shall develop a plan for  
37 expenditures of such revenues to further the purposes of this act  
38 and the Legislature may appropriate such funds for any purpose  
39 consistent with the commission's adopted plan which furthers the  
40 purposes of this act.

1     *SEC. 3. As an amendment of an initiative statute, Sections 1*  
2     *and 2 of this act shall become effective only upon approval by the*  
3     *voters at a statewide election.*

4     *SEC. 4. This act addresses the fiscal emergency declared by*  
5     *the Governor by proclamation on December 19, 2008, pursuant*  
6     *to subdivision (f) of Section 10 of Article IV of the California*  
7     *Constitution.*

8     *SEC. 5. This act is an urgency statute necessary for the*  
9     *immediate preservation of the public peace, health, or safety within*  
10    *the meaning of Article IV of the Constitution and shall go into*  
11    *immediate effect. The facts constituting the necessity are:*

12    *In order to present these provisions amending Proposition 63*  
13    *to the voters at the earliest opportunity, it is necessary that this*  
14    *bill take effect immediately.*

15    ~~SECTION 1. It is the intent of the Legislature to make statutory~~  
16    ~~changes relating to the Budget Act of 2008.~~

17    ~~SEC. 2. This act addresses the fiscal emergency declared by~~  
18    ~~the Governor by proclamation on December 19, 2008, pursuant~~  
19    ~~to subdivision (f) of Section 10 of Article IV of the California~~  
20    ~~Constitution.~~